IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Revision No. 130 of 2001
(Old No. 468 of 1999)

1. Sri Jaswant Singh (since deceased)
S/o Sri Mohan Singh Rautela
R/o Nainital Road, Mallital, Bhimtal
Tehsil and District Nainital
1/1 Smt. Kanti Devi
W/o Late Sri Jaswant Singh
1/2 Deepa Rautela
1/3 Bhawana Rautela
Both daughters of Late Sri Jaswant Singh
.....Revisionists

Versus

1. Sri Subhash Chand Joshi
S/o Sri Lal Mani Joshi
2. Smt. Vidhya Joshi
W/o Sri Subhash Chand Joshi
Both R/o Naini Road, Mallital, Bhimtal
Tehsil and District Nainital .....Respondents

Sri Rajendra Dobhal, learned counsel for the revisionists.
Shri I.P. Kohli, learned counsel for the respondents.

Hon'ble Prafulla C. Pant, J.

This application (No. 10999 of 2006), moved on behalf of the revisionist in which it has been prayed that this case may be decided in terms of compromise entered into between the parties.

2. I heard learned counsel for the parties.

3. The application is supported by an affidavit of revisionist No. 1/2-Deepa Rautela.

4. Learned counsel for the revisionists, states that the revisionists are ready to vacate the shop in question and hand over the possession of the same to the landlord/respondents by 31.12.2006. Learned counsel for the respondents states that he has no objection if time up to 31st December, 2006 is allowed to the revisionists to vacate the shop and hand over the possession to the landlord/respondents.

5. This revision has arisen out of S.C.C. suit No. 04 of 1993, which was decreed by the Judge, Small Cause Court/IIIrd Additional Judge, Nainital, on 06.10.1999, for ejectment of the defendant and also for recovery of arrears of rent and mesne profits. The said suit appears to have been filed by the landlord/respondents on the ground of default of payment of rent by the tenant/revisionists in respect of the shop in question, situated at Bhimtal, District Nainital.

6. After recording the evidence and hearing the parties, the trial court found that the tenant/revisionist Jaswant Singh, committed default in payment of rent and the termination of tenancy was valid and accordingly decreed the suit, as observed above.

7. During the pendency of the revision, revisionist Jaswant Singh has died and his wife 1/1 Kanti Devi and daughters 1/2 Deepa Rautela and 1/3 Bhawana Rautela, were impleaded. It is stated by the learned

counsel for the revisionists that the rent is being deposited at the rate of Rs. 300/- per month during the pendency of the revision and the revisionists are ready to pay the rent at said rate till the shop is vacated and handed over to the landlord/respondents by 31.12.2006. After going through the record of the trial court and the impugned judgment and decree, this Court does not find any error of fact or that of law, which requires interference of this revisional court with the impugned judgment and decree passed by the trial court in S.C.C. suit No. 04 of 1993.

8. At the time of dictating this order, a joint application is also moved by learned counsel for the parties that this revision be disposed of in terms of compromise between them, as to the rate of rent also.

9. In view of said statement made by the learned counsel for the parties and joint application, moved today, as mentioned above and for the reasons as discussed, the revision is dismissed as to the relief granted for ejectment to the defendant. The revisionists are allowed time up to 31st of December, 2006, to vacate the shop in question and to hand over its possession to the landlord/respondents peacefully. If they fail to deliver the possession by said date, the decree passed by the trial court may be got executed by the landlord/respondents. The amount of rent deposited at the rate of Rs. 300/- per month, by the defendant/revisionists may be withdrawn by the

landlord/respondents. The revision stands disposed of accordingly. Costs easy. (All pending applications including application No. 10999 of 2006, stand disposed of).

(Prafulla C. Pant, J.)

Dt: 30.08.2006
Sweta